

## **REMARKS**

The final Office Action mailed on July 20, 2007 (the "Office Action") has been carefully reviewed. It is respectfully submitted that the present invention is patentably distinguishable over the cited references. Reconsideration of this application, in view of the amendments and remarks, is respectfully requested.

### **Summary of the Amendment**

Paragraph 0006 was amended to further clarify the terminology used in this application. No new matter was added by the insertion of the clarification. Support for the amendment is found in the application as filed, and in original paragraphs 0008, 0009, and 0011.

### **Summary of the Rejection of the Claims**

In the Office Action, the Examiner rejected claims 1-7 and 18-22 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan et al., U.S. Published Application No. 2005/0021466, which was published on January 27, 2005 (hereinafter "Buchanan"), and is a divisional application of U.S. Patent 7,181,430, which issued on February 20, 2007.

Claims 11-17 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan in view of Green et al., U.S. Patent No. 5,602,936, which issued on February 11, 1997 (hereinafter "Green").

Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan as applied to claim 7 above, in view of Green.

The Applicants respectfully traverse these rejections, and in view of the following arguments and amendments, request reconsideration and withdrawal thereof.

### **Rejection of the Claims Under 35 U.S.C. § 103(a)**

#### **Buchanan**

The Applicants respectfully traverse the Examiner's rejection of claims 1-7 and 18-22 as being unpatentable over Buchanan. The Examiner indicated in the first Office Action and this Office Action that Buchanan does not explicitly disclose "real-time," and the Examiner equates the term "real-time" with "interactive." Regarding independent claims 1, 2, 3, 7, 18, and 22, the Applicants respectfully disagree with the Examiner's continuing to equate Buchanan's use of the

term “interactive” with the Applicants use of the term “real-time.” Contrary to the Examiner’s usage of the Microsoft Computer Dictionary, 4<sup>th</sup> Ed. to define “interactive,” Buchanan clearly and distinctly defines the term “interactive” within the specification.

The Applicants respectfully draw the Examiner’s attention to Buchanan’s paragraphs 0012-0014, where Buchanan expressly discusses the “interactive process.” In this instance, Buchanan first indicates the validation process is “interactive” in paragraph 0012. Buchanan next describes the “interactive validation process” as “the interactive process of passing [of] voiding, endorsing, unique [item] number information back and forth between the central site and the remote site.” [Buchanan para. 0013].

Additionally, Buchanan uses the term “interactive” in relation to the pre-loading of information on a central site, and communicating that same information with the remote site as part of the “interactive exchange of data during the process of validating the deposit.” [Buchanan para. 0014]. In this instance, Buchanan discloses the inventive software precludes using an interactive validation process. [Buchanan para. 0014]. There is no other occurrence of the term “interactive” in Buchanan’s application.

Buchanan’s usage of the term “interactive” clearly refers to, and defines a “sequential” step process which is occurring “back and forth” between two sites. The interactive “back and forth” process described in Buchanan cannot be equated with any definition of the term “real-time” as used by those skilled in the relevant art. Buchanan’s specification has effectively defined the term “interactive” for the purposes of the invention disclosed therein. Accordingly, it would be improper to apply the Microsoft Computer Dictionary definition to the disclosure of Buchanan.

Comparatively, “real-time” or “concurrently” is used in the Applicants’ independent claims 1, 2, 3, 7, 18, and 22, to describe the transmission, communication or exchange of a digital image and/or digital data record with a second site. As used within the Applicants’ specification and claims, the term “real-time” precludes the “sequential back and forth passing of information between a first financial institution and a second financial institution,” as is found in Buchanan. The Applicants respectfully assert that the Examiner has improperly equated the terminology of “interactive” and “real-time” in contradiction of the definitions of these terms found in Buchanan and the present application. The terms are not synonymous, and therefore the

Applicants' real-time inventive method is distinguished from Buchanan's sequential interactive back and forth process.

The Applicants respectfully assert that the term "real-time" is a defined, clearly understood term by those skilled in the relevant art. However, in an effort to further the pending application and provide additional clarity to terminology in the pending application, the Applicants amended paragraph 0006 to explicitly define the term "real-time" in a single location. Support for this amendment is found in the paragraphs 0008, 0009, and 0011. Specifically, paragraph 0008 describes a "real-time" event as the exchange of the digital images and digital data records with the respective sites while the digital images and digital data records are captured. [Applicants' para. 0008]. In Applicants' paragraph 0009, "concurrently" is used to describe the "real-time" event for the disclosed method. The Applicants' disclosed method "concurrently' . . . stor[es] the created electronic images, send[s] signals encoded to represent at least one of the stored electronic images and . . . identify[ies] a second financial institution to a central image exchange server." [Applicants' para. 0009]. In Applicants' paragraph 0011, the term "concurrently" is again used to describe the "real-time" event occurring "concurrently with processing a financial instrument in an item processing system for a sending financial institution" and "providing the digital image and the digital data record . . . as if originally captured in the item processing system for the receiving financial institution." [Applicants' para. 0011]. The Applicants' usage of the term "real-time" demonstrates that it is used to mean "concurrently" or "simultaneous." Applicants' claimed invention eliminates the need for the sequential back and forth exchange of information in regards to the "real-time" exchange of information. Thus, the Applicants usage of the term "real-time" is not meant include the sequential back and forth passing of information between a first financial institution and a second financial institution. Therefore, inclusion of the definition does not constitute new matter.

Thus, in view of the foregoing arguments and the associated amendment to the specification, the Applicants respectfully submit that independent claims 1, 2, 3, 7, 18, and 22 are in a condition for allowance as well as the claims that depend therefrom. Therefore, the Applicants respectfully request the reconsideration and withdrawal of the rejection of pending claims 1-7 and 18-22 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan.

### **Buchanan In View of Green**

The Applicants respectfully traverse the Examiner's rejection of claims 11-17 and 23 as being unpatentable over Buchanan in view of Green. The Examiner also indicated in the first Office Action and this Office Action that Buchanan does not explicitly disclose "real-time," and the Examiner equates the term "real-time" with "interactive" with regards to independent claims 11, 13, 16, and 23. For the same reasons articulated above, the Applicants respectfully traverse the Examiner's rejection, and respectfully disagree with the Examiner's continued assertion that the terms "interactive" and "real-time" are the same. The Applicants respectfully reiterate their previous argument that the combination of Buchanan in view of Green fails to disclose a plurality of image exchange servers. The Applicants also traverse the Examiner's statement that a server is a computer software/application, and that it can be loaded to any computer.

With regards to an image exchange server, as those skilled in the art know, to convert a personal computer to an image exchange server requires the addition of hardware, software and requires some form of motivation to convert the computer to an image exchange server. Alternatively, to purchase an image exchange server and insert it in place of a personal computer requires some motivation or teaching that such an action is desired or required.

A careful review of both Buchanan and Green fail to disclose any reference, suggestion, teaching, or motivation that would lead one skilled in the relevant art to convert the personal computers of Buchanan into image exchange servers. To do so requires additional software and hardware not disclosed by Buchanan, and it assumes that Green's hardware or software is combinable with Buchanan's method. Such a capability is a conclusory assumption.

Thus, in view of the foregoing arguments and amendments, the Applicants respectfully submit that independent claims 11, 13, 16, and 23, and the claims that depend therefrom, are in a condition for allowance. Therefore, the Applicants respectfully request the reconsideration and withdrawal of the rejection of pending claims 11-17 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan in view of Green.

### **Buchanan In View of Green**

The Applicants respectfully traverse the Examiner's rejection of claims 8-10 as being unpatentable over Buchanan, as applied to the rejection of claim 7 above, in view of Green.

Independent claim 7 was previously addressed above. The Applicants respectfully assert that Buchanan, in combination with Green, does not overcome the deficiencies of Buchanan. Therefore, because claims 8-10 depend upon independent claim 7, and because claim 7 is in a condition for allowance, the Applicants respectfully submit claims 8-10 are also in a condition for allowance.

In view of the foregoing arguments and amendments, Applicants believe claims 1-23 are in a condition for allowance. Thus, the Applicants respectfully request reconsideration and withdrawal of the rejection of pending claims 1-23 under 35 U.S.C. § 103(a).

#### **New Claim 24**

It is submitted that new claim 24 calls for patentable subject matter. Examination of this claim, in view of the above remarks, is respectfully requested. Support for new claim 24 is found in paragraph 0005 of the application.

#### **Conclusion**

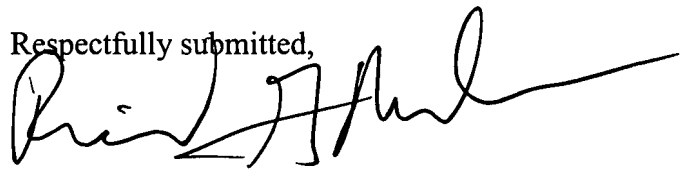
In view of the foregoing amendments and for the foregoing reasons, Applicants submit that the Examiner's rejection of claims 1-23 should be withdrawn, and respectfully request the allowance of claims 1-24.

This is intended to be a complete response to the Office Action mailed on July 20, 2007.

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Date

Respectfully submitted,



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